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# LETTER DATED 21 SEPTEMBER 1992 FROM THE PRESIDENT OF THE GOVERNING COUNCIL OF THE UNITED NATIONS COMPENSATION COMMISSION ADDRESSED TO THE PRESIDENT OF THE SECURITY COUNCIL

I have the honour to transmit herewith, for the attention of the Security Council, the first annual report on the activities of the United Nations Compensation Commission for the period July 1991-June 1992, pursuant to paragraph 10 of Security Council resolution 692 (1991) of 20 May 1991.

Attached to the report are the following annexes: annex I contains the text of the decisions adopted to date by the Governing Council of the Compensation Commission; annex II contains a list of reports and working papers prepared by the Secretariat for the discussions of the Governing Council; and annex III contains a list of working papers submitted by members of the Governing Council.

(Signed) Alex REYN
President
Governing Council
United Nations Compensation Commission

Enclosure

Report dated 1 September 1992 on the activities of the United Nations Compensation Commission

(July 1991-June 1992)

## INTRODUCTION

1. The present report is intended to provide an overview of the activities of the United Nations Compensation Commission during its first year of existence.

2. The Commission started its work when the Governing Council, its principal organ, met for the first time on 23 July 1991. Since then and until June 1992, the Governing Council has held six formal sessions and one session of informal consultations. During that period, the Governing Council, assisted by the Executive Secretary and his staff, implemented the Security Council decisions contained in section E of Security Council resolution 687 (1991) of 3 April 1991 by setting up the scheme to provide compensation for the victims of Iraq's invasion and occupation of Kuwait and for the administration of the Compensation Fund. The Governing Council, inter alia, adopted criteria for the processing of different categories of claims, issued the claim forms for their submission (including specially designed computer software for the capture of the data of the most numerous claims), approved the rules of procedure for the processing of claims and fixed the time-limits for the submission of claims to the Commission.

3. Several thousand of the first claims pertaining to the categories that the Governing Council decided to consider expeditiously have begun to arrive at the Commission's headquarters to be processed by the secretariat. Over 2 million claims in all categories are expected to arrive during the next 18 months. In addition, the secretariat is in the process of collecting hundreds of thousands of verification records to be used for the checking and analysis of certain categories of claims.

4. As of the writing of the present report, everything involved in the secretariat's operation is ready to be continued into the next stages, i.e., the verification of the claims; their categorization; the preparation of reports for the Governing Council, Governments and for Commissioners as required by the rules of procedure; the appointment of panels of Commissioners and the provision of administrative, technical and legal support to the Commissioners by the secretariat.

5. The effective implementation of these stages, however, is contingent on the availability of funds for the hiring of additional staff and the acquisition of the technical means necessary for the reception and processing of the claims. The legal and administrative machinery set up for doing justice to millions of claimants will not be able to continue functioning unless the Commission is provided with indispensable financial support.

6. At the present juncture, for lack of funds, the implementation of the resolutions of the Security Council after one year of hard work by the Commission is clearly in jeopardy. An expression of financial, and therefore political, support is urgently needed to allow the Commission to fulfil its tasks and to confirm that the compensation operation warrants the same degree of attention and backing as the other operations set up by Security Council resolution 687 (1991).

## I. THE COMPENSATION COMMISSION

### A. Establishment of the Compensation Commission

7. The United Nations Compensation Commission (hereinafter referred to as "the Commission") was established by the Security Council for the payment of claims against Iraq for the losses and damages resulting from its invasion and occupation of Kuwait. In its resolution 687 (1991), the Security Council stated that Iraq is liable, under international law, "for any direct loss, damage, including environmental damage and the depletion of natural resources, or injury to foreign Governments, nationals and corporations" (para. 16) and decided to make effective Iraq's liability within the institutional framework of the United Nations. To this end, the Security Council decided to create a fund to pay compensation for claims and a commission to administer the fund (para. 18).

8. The Compensation Fund and the Compensation Commission were established by Security Council resolution 692 (1991), paragraph 3, in accordance with section I of the Secretary-General's report of 2 May 1991 (S/22559).

### B. Functions

9. The functions of the Commission are twofold: on the one hand, the Commission has the responsibility to administer the Fund, including the determination of the level of Iraq's contribution to it and the allocation of funds and payments of claims; on the other hand the Commission organizes the procedures and the resolution of claims for losses resulting from Iraq's unlawful invasion and occupation of Kuwait, including the procedures for evaluating losses, listing claims and verifying their validity, and resolves disputed claims (S/22559, para. 4).

### C. Organization

10. The Commission functions under the authority of the Security Council and is a subsidiary organ thereof (S/22559, para. 4). Its principal organ is the Governing Council, composed of the representatives of the current members of the Security Council at any given time (S/22559, para. 5). The Governing Council is the policy-making organ of the Commission and as such has the responsibility for establishing guidelines on "all policy matters, in

particular those relating to the administration and financing of the Fund, the organization of the work of the Commission and the procedures to be applied to the processing of the claims and to the settlement of disputed claims, as well as to the payments to be made from the Fund" (S/22559, para. 10).

11. The Governing Council conducts its work in accordance with the Guidelines it approved on 25 July 1991 (S/22885, annex I). The Guidelines provide, among other things, that the Governing Council will take all decisions by a majority of at least nine of its members, except decisions on the method of ensuring that payments are made to the Fund, which are taken by consensus.

12. The Governing Council is to be assisted by a number of Commissioners who are experts in fields such as finance, law, accountancy, insurance and environmental damage assessment and who act in their personal capacity (S/22559, para. 5). Commissioners are to be appointed by the Governing Council upon nomination by the Secretary-General on the basis of recommendations of the Executive Secretary. They are to work in panels of three members for the review of claims and to submit their recommendations to the Governing Council for decision (S/24363, annex I, enclosure, arts. 18, 28 and 38).

13. A secretariat, composed of an Executive Secretary appointed by the Secretary-General after consultation with the Governing Council, and of the necessary staff, has been established to service the Commission. Under the direction of the Executive Secretary, the secretariat carries out such tasks as may be assigned to it by the Governing Council and the Commissioners, in particular, the technical administration of the Fund, and the provision of secretariat services to the Governing Council and the Commissioners (S/22559, paras. 6 and 12). The Executive Secretary has been entrusted with additional responsibilities in relation to the processing of the claims (Provisional Rules for Claims Procedure, S/24363, annex I, enclosure).

## D. Financing of the Commission

14. The expenses of the Commission are to be borne by the Fund (S/22559, para. 8). Since up to now the Fund has not been adequately financed, the Commission has been financed to date by advances from the United Nations Working Capital Fund and the United Nations regular budget and through contributions from some Governments. Expenditures and obligations incurred by the Compensation Commission secretariat as of 31 December 1991 amounted to US$ 395,000. Allotments for the Commission for the year 1992 amount to US$ 2,068,100. A recoverable contribution from Kuwait earmarked for the Commission may allow for the raising of the allotment for 1992 by a further US$ 2 million. Charges for conference-servicing costs and rental costs of the headquarters of the secretariat have been deferred and therefore are not included in the figures provided above.

## II. THE GOVERNING COUNCIL

### A. Composition of the Governing Council

15. The Governing Council met for the first time on 23 July 1991. At that time, the members of the Council were the following: Austria, Belgium, China, Côte d'Ivoire, Cuba, Ecuador, France, India, Romania, Union of Soviet Socialist Republics, United Kingdom of Great Britain and Northern Ireland, United States of America, Yemen, Zaire and Zimbabwe. On 31 December 1991, Côte d'Ivoire, Cuba, Romania, Yemen and Zaire ceased to be members of the Security Council. The new members for the period 1992-1993 are Cape Verde, Hungary, Japan, Morocco and Venezuela.

### B. Officers

16. At its first meeting the Governing Council elected Belgium as the President of the body. The presidency was exercised during 1991 by Mr. Philippe J. Berg, then Permanent Representative of Belgium, and in 1992, by the new Permanent Representative of Belgium, Mr. Alex Reyn.

17. Romania and Zimbabwe were elected Vice-Presidents for the year 1991. In 1992, Hungary replaced Romania, which had ceased to be a member of the Security Council.

18. On 29 July 1991, the Secretary-General, after consultations with the Governing Council, appointed Ambassador Carlos Alzamora as the Executive Secretary of the Commission.

### C. Meetings

19. Since its establishment, the Governing Council has held six sessions during the following periods:

First session: from 22 July to 2 August 1991;

Second session: from 14 to 18 October 1991;

Third session: from 25 to 29 November 1991;

Fourth session: from 20 to 24 January 1992. On 24 January 1992, the fourth session was adjourned to allow consultations on pending matters relating to the item: "Compensation for loss of profits and other business losses". The session was resumed on 6 March 1992 and closed the same day;

Fifth session: from 16 to 20 March 1992;

Sixth session: from 22 to 26 June 1992.

Moreover, the Council held informal consultations from 16 to 20 September 1991.

## III. WORK OF THE GOVERNING COUNCIL

20. The Governing Council has adopted several decisions that provide the legal, institutional and administrative framework within which the Commission will perform its functions. All decisions have been adopted by consensus. The decisions may be separated into two categories: those relating to the administration of the Fund and those relating to the resolution of claims.

### A. Administration of the Fund

21. Decisions 2 (S/22885, annex III) and 6 (see annex I to the present report) deal mainly with the question of the establishment of the Compensation Fund and its administration. In decision 2, the Governing Council requested the Executive Secretary to report on a variety of legal, financial, market and other technical aspects of Iraq's oil production and trade and on options for holding and managing revenues from Iraqi exports of petroleum and petroleum products.

22. On the basis of the technical and factual information provided in the report of the Executive Secretary, the Governing Council adopted decision 6 on arrangements for ensuring payments to the Compensation Fund. These arrangements will come into operation after sanctions imposed by the Security Council on Iraq are removed pursuant to paragraph 22 of Security Council resolution 687 (1991) (decision 6, para. 3). The decision provides for payments by purchasers of Iraqi petroleum and petroleum products to be made into an escrow account that will replace the Escrow Account that was established by the Security Council pursuant to resolutions 706 (1991) and 712 (1991) for the period during which the sanctions are in force (para. 4); for the establishment of the Compensation Fund as a separate account to be administered by the Executive Secretary under the policy guidance of the Governing Council (para. 5); and for methods to ensure that the established percentage of payments of Iraqi petroleum and petroleum products is paid to the Compensation Fund (paras. 6 and 10). Decision 6 also declares the Escrow Account and the Compensation Fund to be special funds of the United Nations with appropriate privileges and immunities (para. 11). The decision also establishes a system for monitoring the flow of Iraqi petroleum and petroleum products for export, as well as contract pricing (paras. 14-18).

### B. Resolution of claims

23. The Security Council directed the Governing Council to proceed in an expeditious manner, taking into account the recommendations contained in section II of the Secretary-General's report (resolution 692 (1991), para. 5) to implement the provisions of section E of resolution 687 (1991) regarding the liability of Iraq for any direct loss, damage or injury resulting from its invasion and occupation of Kuwait. Section II of the Secretary-General's report (S/22559) sets forth, inter alia, the general principles on which basis the establishment of a mechanism to process and pay claims should be

established. The report made clear that the Commission is not a court or an arbitral tribunal before which the parties would appear but a political organ that performs an essentially fact-finding function of examining the claims, verifying their validity, evaluating losses, assessing payments and resolving disputed claims. It recognized, nevertheless, that some elements of due process should be built into the procedure (para. 20).

24. On the basis of the recommendations contained in the Secretary-General's report, the Governing Council adopted a series of decisions regulating the submission and processing of claims and the determination of compensable losses. Decision 1 (S/22885, annex II) set forth criteria for the expedited processing of urgent claims. "Urgent claims" are those submitted by individuals (a) claiming fixed amounts for departure from Iraq or Kuwait during the period of 2 August 1990 to 2 March 1991 (para. 10); (b) who suffered serious personal injury or whose spouse, child or parent died (para. 10); and (c) claiming for amounts up to US$ 100,000 for death, personal injury or loss of income; support; housing or personal property; medical expenses or costs of departure (paras. 14-16).

25. Under criteria for the expedited processing of urgent claims for departure, injury or death, simple documentation of the fact and date of the departure or the injury or, in the case of death, simple documentation of the death and family relationship, entitles the claimant to compensation in the following fixed amounts:

(a) For departure, US$ 2,500 per person and up to US$ 5,000 with respect to any one family. Subsequently, at its 16th meeting, held on 25 November 1991, the Governing Council agreed to raise these levels to US$ 4,000 and US$ 8,000 respectively in cases when the claimant and his/her family members agree not to file claims under any other form or category. To this end it was agreed to add the following sentence to the notice of claimants accompanying claim forms A (claim form for departure from Iraq or Kuwait):

> "If you and your family members agree not to file claims under any other form or category you may use this form to claim an additional amount of US$ 1,500 (for a total of US$ 4,000 per person) and the US$ 5,000 for your family (as defined in para. 3 above) will be raised to US$ 8,000)";

(b) For serious personal injury, US$ 2,500 per person;

(c) For death US$ 2,500 per person and up to US$ 10,000 with respect to any one family.

26. In decision 3 (see annex I to the present document) the Council adopted a series of formulations on serious personal injury and on mental pain and anguish for the purpose of the application of the criteria adopted in decision 1. The Council shared several understandings with respect to the interpretation and application of some key terms such as "detention" and "manifestly well-founded fear"; defined the meaning of the expression "serious

personal injury"; and described situations from which mental pain and anguish might have come about. Ceilings for compensation for non-pecuniary losses for mental pain and anguish were established in decision 8 (see annex I to the present document).

27. In decision 4 (see annex I to the present document) the Council adopted several conclusions with regard to business losses of individuals eligible for consideration under the expedited procedures.

28. The criteria for additional categories of claims were set forth in decision 7 (S/23765, annex). Section I of the decision deals with criteria for processing of claims of individuals not otherwise covered (paras. 1-15); section II deals with criteria for processing claims of corporations and other entities (paras. 16-29); and section III sets forth criteria for processing claims of Governments and international organizations (paras. 30-42).

29. In establishing the criteria for the additional categories of claims in decision 7, the Council stated that further guidance would be provided on the question of business losses that were a direct result of Iraq's unlawful invasion and occupation of Kuwait as opposed to losses suffered as a result of the trade embargo and related measures. These guidelines were ultimately produced in decision 9 (see annex I to the present document) dealing with "Propositions and conclusions on compensation for business losses: types of damages and their evaluation". After formulating certain general rules on the matter (paras. 1-6), this decision dealt with losses in connection with contracts or past business practices (paras. 7-15) and with losses relating to income-producing properties (paras. 16-19).

30. In decision 11 (S/24363, annex II) the Governing Council decided that members of the Allied Coalition Armed Forces were not eligible for compensation as a consequence of their involvement in coalition military operations against Iraq unless: (a) compensation is awarded in accordance with the criteria already adopted by the Council; (b) the claimants are prisoners-of-war; and (c) the loss or injury resulted from mistreatment in violation of international humanitarian law.

31. The Governing Council adopted on 26 June 1992 decision 10, containing the Provisional Rules for Claims Procedure (S/24363, annex I). The Rules consist of 43 articles divided into four sections: I. General provisions; II. Submission and filing of claims; III. Commissioners; IV. Procedures governing the work of the panels.

32. The Governing Council has also determined the time-limits within which claims must be submitted by Governments to the Commission. For claims in categories A, B, C and D, the filing period extends to 1 July 1993 (decision 7, para. 15, and S/AC.26/1991/SR.18); for claims in category E, the period extends from 1 January 1993 to 1 January 1994 (decision 7, para. 29, and S/AC.26/1992/SR.25); and for claims in category F, the filing period will run from 1 February 1993 to 1 February 1994 (decision 7, para. 42).

### C. Other matters

#### 1. Persons not in a position to have their claims submitted by a Government

33. Paragraph 19 of decision 1 (S/22885, annex II) refers to the situation of claimants who are not in a position to have their claims submitted by a Government and anticipated the possibility of the Council appointing an appropriate person, authority or body to submit claims on behalf of those persons. In decision 5 adopted on 18 October 1991 (see annex I to the present document), the Governing Council requested the Executive Secretary to obtain all information necessary to appoint a person, authority or body to submit claims on behalf of those individuals and to make a recommendation on the matter (para. 7). After consulting with several persons and entities, the Executive Secretary proposed - and the Council accepted - to request the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA) to assume the responsibility of submitting consolidated claims on behalf of Palestinians resident in several countries of the Middle East. With regard to the presentation of claims on behalf of Palestinians living in the territories occupied by Israel, who are not in a position to have their claims submitted by a Government, the Governing Council agreed on a proposal of the Executive Secretary to entrust this task to the United Nations Development Programme (UNDP). A similar solution was proposed for the submission of claims by Palestinians residing in the United States. Both organizations accepted the mandate and the operations for the gathering and consolidation of claims of those persons are currently in progress.

#### 2. Participation of States not members of the Governing Council

34. Some States who are not members of the Governing Council addressed the body during the sessions in accordance with paragraph 5 of the Guidelines for the conduct of work (S/22885, annex I). Up to now, the following non-member States have made presentations to the Council: Kuwait (at all six sessions); Iraq (at all six sessions); Pakistan (second and third sessions); Philippines, Sri Lanka and Viet Nam (second session); Turkey (fourth session); and Poland (sixth session).

## IV. WORK OF THE EXECUTIVE SECRETARY

35. Owing to budgetary constraints, the secretariat has been staffed during its first year with an average of only five Professionals. During that year the secretariat has taken care of the organization of the sessions of the Governing Council including the preparation of documents. Moreover, the secretariat is advising, on a continuous basis, Governments and international organizations on questions related to the preparation and submission of claims.

36. For the purpose of eliciting discussion of the different items before the Council and ultimately for the adoption of decisions, the secretariat has prepared several reports and working papers (see annex II to the present document). Reports and working papers have also been submitted by some members of the Governing Council (see annex III to the present document).

37. In accordance with the decisions of the Governing Council, the secretariat prepared claim forms for different categories of claims and distributed them to all Member States. The secretariat also developed and distributed computer software materials for the submission of departure claims in category A, a set of instructions for the claimants in each category of claims and covering letters addressed to all Governments containing explanations concerning the submission of consolidated claims. Claim forms are divided into the following categories: claim forms for departure form Iraq or Kuwait (claim form A); claim forms for serious personal injury or death (claim form B); individual claim forms for damages up to US$ 100,000 (claim form C); individual claim forms for damages above US$ 100,000 (claim form D); claim forms for corporations and other entities (claim form E) and claims of Governments and international organizations (claim form F).

38. The secretariat has already received consolidated claims in categories A, B and C from several Governments. The claims received so far represent only a small percentage of claims in these categories, which are expected to total 1.5 million individual claims. The secretariat, in conformity with the Provisional Rules for Claims Procedure adopted by the Governing Council (S/24363, annex I, enclosure), is now in the process of registering the claims submitted, verifying the fulfilment of the formal requirements and preparing reports required under the Rules. In view of the large quantities of claims expected and the massive paperwork involved, the secretariat has converted the basement of the building it occupies into a claims storage facility that includes the installation of a highly condensed filing system. It is nevertheless expected that the space in the secretariat building for the storage of claims will have to be complemented with additional space in other locations of the United Nations offices at Geneva.

39. The secretariat has developed the computer software materials necessary for the capture of data from claim form A (departure from Iraq and Kuwait) in order to facilitate the processing of these claims, which are anticipated to be filed in great numbers. The secretariat is currently working on the development of a comprehensive computerized environment for the processing of claims, which is both critical and essential to the successful operation of the programme. With limited human and financial resources available, however, progress in this field has been delayed. It is expected that development of the computerized claims-processing system will take some nine months to complete, assuming that the substantial level of funding required for the project will be available.

40. In order to evaluate and verify the information on departure claims filed by the Governments on the computer diskettes provided by the Commission, the secretariat has embarked on developing a computerized database that will

compare the information provided in each individual claim with the departure information acquired by the secretariat. Apart from the development of the database itself, the task of ensuring that enough information on the departure of claimants will be available for the database has also been time-consuming and difficult. For that purpose, the secretariat has had numerous communications with the Governments most likely to have useful information, international organizations, airlines and other transportation companies that arranged emergency evacuation flights from Iraq and Kuwait and other sources that might be able to provide further information.

Annex I

# DECISIONS ADOPTED BY THE GOVERNING COUNCIL*

(23 July 1991-26 June 1992)

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* Decisions that are already contained in Security Council documents are not reproduced in the present report. However, the relevant document symbol is given.

## GUIDELINES FOR THE CONDUCT OF THE WORK OF THE GOVERNING COUNCIL

Adopted by the Governing Council of the United Nations Compensation Commission during its first session, at its 4th meeting, held on 23 July 1991

[See S/22885, annex I]

## DECISION 1

Adopted by the Governing Council of the United Nations Compensation Commission during its first session, at its 10th meeting, held on 2 August 1991

Criteria for expedited processing of urgent claims

[See S/22885, annex II]

## DECISION 2

Adopted by the Governing Council of the United Nations Compensation Commission during its first session, at its 10th meeting, held on 2 August 1991

Arrangements for ensuring payment to the Compensation Fund

[See S/22885, annex III]

## DECISION 3

Adopted by the Governing Council of the United Nations Compensation Commission during its second session, at its 15th meeting, held on 18 October 1991*

Personal injury and mental pain and anguish

The Council has adopted the following formulations on serious personal injury and on mental pain and anguish, for the purpose of application of the criteria adopted on 2 August 1991, for expedited processing of urgent claims. These formulations draw heavily upon the excellent work of the Commission secretariat in preparing studies on these matters.

The Council shared certain common understandings with respect to the interpretation and application of these formulations.

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* Previously issued under the symbol S/AC.26/1991/3.

First, all references to detention and hiding are understood to mean detention and hiding within Iraq or Kuwait.

Second, the terms "detention" and "detained" are to be interpreted in a restrictive manner with respect to these criteria. Specifically, they are used in this context to mean the holding of persons by force in a particular location by Iraqi authorities.

Third, the phrase "manifestly well-founded fear" is likewise to be interpreted in a restrictive manner with respect to these criteria. Specifically, this phrase is used in this context to mean a fear based upon clear indications that Iraqi authorities were seeking to kill or detain the individual in question or some group of which he or she was a member.

Fourth, the Council has taken no action at this time on the question of possible ceilings or fixed amounts for compensation for mental pain and anguish.

The Council requests the Commission secretariat to prepare a study on these matters on an urgent basis, so that the Council may take a decision at its next meeting in November. The Council also notes that its reference to recovery of pecuniary losses resulting from mental pain and anguish is simply an application of the general principle that there will be recovery for pecuniary losses falling within the criteria; as such, there is no intention to provide duplicative recovery for pecuniary losses.

Serious personal injury

1. "Serious personal injury" means:

(a) Dismemberment;

(b) Permanent or temporary significant disfigurement, such as substantial change in one's outward appearance;

(c) Permanent or temporary significant loss of use or limitation of use of a body organ, member, function or system;

(d) Any injury which, if left untreated, is unlikely to result in the full recovery of the injured body area or is likely to prolong such full recovery.

2. For purposes of recovery before the Compensation Commission, "serious personal injury" also includes instances of physical or mental injury arising from sexual assault, torture, aggravated physical assault, hostage-taking or illegal detention for more than three days or being forced to hide for more than three days on account of a manifestly well-founded fear for one's life or of being taken hostage or illegally detained.

3. "Serious personal injury" does not include the following: bruises, simple strains and sprains, minor burns, cuts and wounds; or other irritations not requiring a course of medical treatment.

Mental pain and anguish

Compensation will be provided for pecuniary losses (including losses of income and medical expenses) resulting from mental pain and anguish. In addition, compensation will be provided for non-pecuniary injuries resulting from such mental pain and anguish as follows:

(a) A spouse, child or parent of the individual suffered death;

(b) The individual suffered serious personal injury involving dismemberment, permanent or temporary significant disfigurement, or permanent or temporary significant loss or use or limitation of use of a body organ, member, function or system;

(c) The individual suffered a sexual assault or aggravated assault or torture;

(d) The individual witnessed the intentional infliction of events described in subparagraphs (a), (b) or (c) on his or her spouse, child or parent;

(e) The individual was taken hostage or illegally detained for more than three days, or for a shorter period in circumstances indicating an imminent threat to his or her life;

(f) On account of a manifestly well-founded fear for one's life or of being taken hostage or illegally detained, the individual was forced to hide for more than three days; or

(g) The individual was deprived of all economic resources, such as to threaten seriously his or her survival and that of his or her spouse, children or parents, in cases where assistance from his or her Government or other sources has not been provided.

## DECISION 4

Adopted by the Governing Council of the United Nations Compensation Commission during its second session, at its 15th meeting, held on 18 October 1991*

### Business losses of individuals eligible for consideration under the expedited procedures

The Council has adopted the following conclusions with regard to business losses of individuals eligible for consideration under the expedited procedures, subject to the reservation made by the Government of India regarding the eligibility of claimants who were engaged in business in Kuwait on a "rent-a-permit" basis, and with the exception of paragraph (f), part of which is in square brackets:

(a) The owner of a single proprietorship may claim for his business losses;

(b) Losses suffered by a business entity that has separate legal personality must, in principle, be claimed by that entity on another claim form;

(c) Losses suffered by a partnership that has no separate legal personality must, in principle, be claimed jointly by all partners;

(d) In the event that a partnership which has separate legal personality is, because of its nationality, not eligible to claim for its losses, each of the eligible partners may claim pro rata for his proportionate interest;

(e) In the event that, because of his nationality, a partner of a partnership that has no separate legal personality is not eligible to join in a claim for losses suffered by the partnership, each of the eligible partners may claim pro rata for his proportionate interest;

(f) Shareholders of a corporation which [is not able] [because of its nationality, is not eligible] to claim for its losses, may claim for losses with respect to that corporation. The same applies, mutatis mutandis, to members/shareholders of other business entities akin to shareholdings;

(g) Preventing access, removal, looting and destruction are examples of circumstances under which business losses may have occurred;

(h) Premises, equipment and stock are examples of business property whose loss may be claimed;

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* Previously issued under the symbol S/AC.26/1991/4.

(i) Damage to intangible assets, lost business revenues and losses in connection with contracts may be claimed only if they are a direct loss resulting from Iraq's invasion and occupation of Kuwait.

DECISION 5

Adopted by the Governing Council of the United Nations Compensation Commission during its second session, at its 15th meeting, held on 18 October 1991*

Guidelines relating to paragraph 19 of the criteria for expedited processing of urgent claims

1. These guidelines are made in pursuance to the third sentence of paragraph 19 of the criteria for expedited processing of urgent claims contained in document S/AC.26/1991/1 of 2 August 1991 (see S/22885, annex II).

2. The third sentence of paragraph 19 provides that, in addition to Governments as subjects submitting claims, the Council may request an appropriate person, authority or body to submit claims on behalf of individuals who are not in a position to have their claims submitted by a Government.

3. A high number of individuals will most likely not be in a position to have their claims submitted by a Government. Among these individuals Palestinians represent the most numerous group. Furthermore, stateless persons and other individuals in the same position who still remain in Kuwait or who are situated on border lines are to be included in this category.

4. The international community, represented by the United Nations Compensation Commission, bears the overall responsibility for protecting the interests of the above-mentioned individuals. It will be necessary, however, that an appropriate person be entrusted with various aspects of the implementation of this task which shall include, inter alia, providing information to future claimants, distributing and collecting forms, submitting claims and, finally, executing payments.

5. To engage in this task in a comprehensive manner would, however, go beyond the administrative and personnel capacities of the Commission. Therefore, the person to be appointed in order to submit claims on behalf of individuals who are not in a position to have their claims submitted by a Government should, prior to and throughout the execution of his work, seek advice and any appropriate cooperation from established and experienced international bodies, such as the United Nations Relief and Works Agency for Palestine Refugees in the Near East, the Office of the United Nations High Commissioner for Refugees and the International Committee of the Red Cross.

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* Previously issued under the symbol S/AC.26/1991/5.

Cooperation would appear especially appropriate with international bodies having a network of regional offices at their disposal.

6. If one of the above-mentioned organizations should take part in any operation in cooperation with the United Nations Compensation Commission, this organization and the United Nations Compensation Commission may discuss the financial implications.

7. The Governing Council therefore requests that the Executive Secretary obtain all information necessary to appoint an appropriate person, authority or body to submit claims on behalf of individuals who are not in a position to have their claims submitted by a Government and to make a recommendation to the Governing Council at its next session regarding the appropriate person, authority or body, to be appointed.

## DECISION 6

Adopted by the Governing Council of the United Nations Compensation Commission during its second session, at its 15th meeting, held on 18 October 1991*

### Arrangements for ensuring payments to the Compensation Fund

1. Paragraph 7 of Security Council resolution 692 (1991) requested the Governing Council to report as soon as possible on the actions it has taken with regard to the arrangements for ensuring that payments are made to the Fund, so that the Security Council could give its approval in accordance with paragraph 22 of resolution 687 (1991).

2. The arrangements in the following paragraphs will be revised when circumstances warrant.

3. These arrangements will come into operation only when sanctions are removed pursuant to paragraph 22 of resolution 687 (1991) and are consistent with the approach adopted in resolutions 706 (1991) and 712 (1991) and with the reports of the Secretary-General dated 2 May 1991 (S/22559), and 4 September 1991 (S/23006). The Governing Council will oversee the implementation of these arrangements.

Payment mechanism

4. Purchasers of Iraqi petroleum and petroleum products will continue to be required to make all payments to an escrow account established by the Secretary-General as a special account of the United Nations. This Escrow Account will replace the escrow account established pursuant to resolutions 706 (1991) and 712 (1991). The Executive Secretary and the Secretary-General

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* Previously issued under the symbol S/AC.26/1991/6.

will consult to establish the appropriate arrangements for the administration of the Escrow Account and on the question of which person or institution should be the Escrow Agent. Use of an escrow account will ensure continuity and predictability for those involved in transactions involving Iraqi petroleum and petroleum products.

5. The Compensation Fund will be a separate account administered by the Executive Secretary under the policy guidance of the Governing Council. The Executive Secretary will report periodically to the Governing Council on the administration of the Fund. The Escrow Agent will transfer from the Escrow Account to the Compensation Fund the percentage due it and remit the remainder to Iraq, without any further deduction except as specifically provided in this paper. The Compensation Fund will bear interest. The Executive Secretary will be authorized to enter into any agreements or arrangements necessary to implement this paragraph and will report to the Governing Council on these agreements or arrangements.

6. Contracts for the sale and purchase of Iraqi petroleum and petroleum products will be made directly by Iraq (SOMO) with purchasers. They must provide that payment will be transferred directly to the Escrow Account. To ensure payment occurs, purchasers will be required to open a confirmed irrevocable letter of credit for each transaction providing that the proceeds will be paid to the Escrow Account, except where the Executive Secretary determines that there is an alternative equivalent guarantee of payment. A letter of credit form will be established. The issuing or confirming bank for each transaction will be required to be a reputable commercial bank notified by the parties to the transaction and acceptable to the Executive Secretary. The amount and timing of payments will be in accordance with normal commercial practice (for crude oil shipments, market price, with payment ten to sixty days after loading in Iraq or in a contiguous State). The Escrow Agent will notify the Executive Secretary of each payment into the Escrow Account. In cases where payment to the Escrow Account is not made by documentary letter of credit and is not made within the time period specified in the contract, the Executive Secretary will arrange for the standby letter of credit (or alternative equivalent guarantee) to be called.

7. With regard only to exports by truck of Iraqi petroleum and petroleum products, a special system will apply. Iraq's neighbouring States will be required, within five days, to provide the Executive Secretary with copies of the customs documents specifying the volume and value of such shipment. If the petroleum or petroleum products are bought for use in a neighbouring State or for re-export, the purchaser will be required to pay the percentage to the Escrow Account within thirty days after petroleum or petroleum products are exported from Iraq. The Escrow Agent will transfer this full amount to the Compensation Fund. Instead of a letter of credit, if payment is not made within thirty days, the Executive Secretary will notify the Escrow Agent of the additional amount to be provided on account of the shipment. The Escrow Agent will then transfer such additional amount to the Compensation Fund out of other funds passing through the Escrow Account. Truck shipments for direct sales by Iraq from terminals in neighbouring States will be handled in the

same manner as shipments from pipeline terminals, i.e., the requirement for payment of the full purchase price into the Escrow Account, backed up by a letter of credit, will apply.

8. With respect to barter transactions, Iraq will be required to choose either of the following two options for each shipment: (a) arrange another cash sale from which such additional funds will be deducted as are required to make payment for the barter transaction, with these funds being remitted to the Escrow Account in advance of transfer of title of the petroleum or petroleum product, or (b) pay the required percentage from other sources in advance of the transfer of title. Agreements for such barter transactions must indicate a market contract price for the petroleum or petroleum products. The amount of the required percentage under either of the preceding alternatives will be fixed by reference to this price. If a barter, or other transaction mentioned above occurs without the required payment being made to the Escrow Account, the Executive Secretary will notify the Escrow Agent of the amount to be provided on account of the shipment, and the Escrow Agent will transfer such additional amount to the Compensation Fund out of other funds passing through the Escrow Account.

9. The question of exports of petroleum and petroleum products for debt repayment will be addressed by the Governing Council at a later stage, noting Security Council resolutions 687 (1991) and 692 (1991).

10. The Executive Secretary will report on the status, location and value of the Iraqi petroleum and petroleum products previously exported and subject to the percentage deduction under paragraph 6 of resolution 692 (1991) and, taking into account the results of payments under resolutions 706 (1991) and 712 (1991), will develop, for the consideration of the Governing Council, proposals for assuring that contributions are made to the Compensation Fund with respect to such previous exports.

11. The Escrow Account and Compensation Fund will be special funds of the United Nations with appropriate privileges and immunities. The Compensation Commission will ask the Security Council to reaffirm that the Escrow Account and Compensation Fund enjoy the privileges and immunities of the United Nations. Before the Escrow Account or Compensation Fund are established, a satisfactory legal opinion will be obtained from the institution or institutions in which they are to be held, attesting that they will be immune from suit or other form of judicial process, including attachment, garnishment and offsets.

12. The Compensation Commission will ask the Security Council to decide under Chapter VII of the Charter of the United Nations that exports of Iraqi petroleum and petroleum products, while in transit, are immune from attachment or other legal action. Before Iraqi petroleum or petroleum products transit any State other than Iraq, the Executive Secretary will obtain a satisfactory legal opinion attesting to such immunity from that State or, if he deems it appropriate, may enter into any agreement with that State providing for such immunity. Upon transfer of title to the purchaser, the petroleum and petroleum products will not be subject to garnishment by Iraq's creditors.

13. These arrangements are designed to permit normal commercial marketing of Iraqi petroleum and petroleum products once sanctions are lifted, while both ensuring that the Compensation Fund receives all the payments it is due and protecting the petroleum and petroleum products and the sales proceeds from garnishment by Iraq's creditors. The Escrow Account and Compensation Fund will be immune from garnishment. Payments that purchasers owe the Escrow Account will not be subject to garnishment since the payment will be owed to the account and not to Iraq.

Monitoring

14. The monitoring system is to be implemented with the greatest possible use of existing commercial mechanisms and with a view to imposing the minimum burden on normal commercial activity that is consistent with ensuring payments to the Compensation Fund.

15. The Executive Secretary is requested to hire Commission agents to monitor the flow of petroleum and petroleum products at appropriate points, including any functioning loading terminals and at meters situated at the Iraqi border in any functioning pipeline running into a neighbouring State. Before any loading, Commission agents will check that the contract or barter transaction agreement has the approved content, that the letter of credit has the approved form and content, and that the transaction contains no indication of fraud. This paragraph would not apply to truck shipments; the Commission would essentially rely on the assistance of the Customs authorities in Iraq's neighbouring States to assist in the monitoring, but would have the authority to make spot checks.

16. Commission agents will also check that the pricing is within an acceptable range of the market price as determined by the Executive Secretary, with expert assistance, taking into account other relevant transactions, the commercial usages of the parties to the particular transaction, and other relevant circumstances. If the Commission agents determine that the contract price is below the acceptable range for petroleum or petroleum products that have been loaded and shipped, the Executive Secretary will notify the Escrow Agent of the additional amount needed to cover the resulting shortfall in contributions to the Compensation Fund. The Escrow Agent will transfer such additional amount to the Compensation Fund out of other funds passing through the Escrow Account. Commission agents will have authority to prevent loading and shipment if these matters are not in order. In accordance with standard practice in the industry, the parties to the transaction will be required to provide a report from a recognized independent petroleum inspector of international reputation attesting to quality and quantity. The Commission agents will provide copies of the contracts, letters of credit and the independent inspectors' reports to the Executive Secretary, who will maintain a register of all transactions and of related payments into the Escrow Account and Compensation Fund.

17. Where the loading terminal is outside Iraq, the Executive Secretary is requested to obtain the assistance of the State where it is located in conducting the monitoring and otherwise assisting in the implementation of the decisions of the Governing Council. (Resolution 692 (1991) requested all States and international organizations to cooperate fully with such decisions.) When Iraq's offshore terminal again becomes operational, the Executive Secretary will make arrangements for monitoring exports from it.

18. The Executive Secretary will consult with the Secretary-General to draw on the relevant experience and staff used by the Secretary-General, to avoid duplication of efforts.

Governing Council and Security Council action

19. The Governing Council requests that the Executive Secretary make all the arrangements, consulting with the Secretary-General as necessary, so that this system can be implemented immediately when the Security Council takes action pursuant to paragraph 22 of resolution 687 (1991). The Governing Council should, when it reports to the Security Council pursuant to paragraph 7 of resolution 692 (1991), request that, in the resolution of approval pursuant to paragraph 22, the Security Council include the provisions necessary for the effective implementation of these arrangements, including provisions (a) reaffirming the immunity of the Escrow Account and Compensation Fund, (b) establishing the immunity of the Iraqi petroleum and petroleum products while in transit, until title is transferred to a purchaser and (c) requiring that all States take any necessary domestic measures to implement the arrangements decided upon by the Governing Council for ensuring payments to the Compensation Fund.

## DECISION 7

Adopted by the Governing Council of the United Nations Compensation Commission during its third session, at its 24th meeting, held on 16 March 1992

Criteria for additional categories of claims

[See S/23765, annex]

DECISION 8

Adopted by the Governing Council of the United Nations Compensation Commission during its fourth session, at its 22nd meeting, held on 24 January 1992*

Determination of ceilings for compensation for mental pain and anguish

1. At its third session, the Governing Council examined the question of possible ceilings or fixed amounts for compensation for mental pain and anguish on the basis of a study prepared by the secretariat (S/AC.26/1991/WP.18).

2. After having discussed the issue, the Governing Council decided to adopt ceilings rather than fixed amounts for compensation for mental pain and anguish, but postponed the actual determination of the amounts for the Governing Council's fourth session. In order to assist the Governing Council in its discussion of applicable ceiling amounts, the secretariat prepared an information sheet on the number of potential claimants eligible for compensation for mental pain and anguish (S/AC.26/1992/CRP.5).

3. Following extensive exchanges on the subject, a consensus of opinion was reached resulting in the following formulations on ceiling amounts for compensation for mental pain and anguish:

CATEGORY A. A spouse, child or parent of the individual suffered death:

US$ 15,000 ceiling per claimant;

US$ 30,000 ceiling per family unit.

CATEGORY B. The individual suffered serious personal injury involving dismemberment, permanent or temporary significant disfigurement, or permanent or temporary significant loss of use or limitation of use of a body organ, member, function or system:

US$ 15,000 ceiling for dismemberment, permanent significant disfigurement or permanent loss of use or permanent limitation of use of a body organ, member, function or system;

US$ 5,000 ceiling for temporary significant disfigurement or temporary significant loss of use or limitation of use of a body organ, member, function or system.

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* Previously issued under the symbol S/AC.26/1992/8.

CATEGORY C. The individual suffered sexual assault or aggravated assault or torture:

US$ 5,000 ceiling per incident.

CATEGORY D. The individual witnessed the intentional infliction of events described in categories A, B or C on his or her spouse, child or parent:

US$ 2,500 ceiling per claimant;

US$ 5,000 ceiling per family unit.

CATEGORY E. The individual was taken hostage or illegally detained for more than three days, or for a shorter period in circumstances indicating an imminent threat to his or her life:

US$ 1,500 per claimant for being taken hostage or illegally detained for more than three days, or for a shorter period in circumstances indicating an imminent threat to life;

US$ 100 per day for each day detained in Iraq or Kuwait beyond three;

Ceiling of US$ 10,000 per claimant.

CATEGORY F. On account of a manifestly well-founded fear for one's life or of being taken hostage or illegally detained, the individual was forced to hide for more than three days:

US$ 1,500 per claimant for being forced to hide for three days;

US$ 50 per day for each day forced to hide in Iraq or Kuwait beyond three;

Ceiling of US$ 5,000 per claimant.

CATEGORY G. The individual was deprived of all economic resources, such as to threaten seriously his or her survival and that of his or her spouse, children or parents, in cases where assistance from his or her Government or other sources has not been provided:

US$ 2,500 ceiling per claimant;

US$ 5,000 ceiling per family unit.

4. These amounts are payable cumulatively where more than one situation applies with respect to particular claimants. However, the following overall ceilings will apply to total cumulative amounts available to claimants for payments for mental pain and anguish:

US$ 30,000 ceiling per claimant;

US$ 60,000 ceiling per family unit.

## DECISION 9

Adopted by the Governing Council of the United Nations Compensation Commission during its resumed fourth session, at its 23rd meeting, held on 6 March 1992*

### Propositions and conclusions on compensation for business losses: types of damages and their valuation

1. The propositions and conclusions contained in this decision shall apply to compensation for the loss of earnings or profits and other business losses covered by Security Council resolution 687 (1991).

2. The basic premise underlying all of the findings concerning business losses is that, pursuant to paragraph 16 of Security Council resolution 687 (1991), Iraq "is liable under international law for any direct loss, damage, including environmental damage and the depletion of natural resources, or injury to foreign Governments, nationals and corporations as a result of Iraq's unlawful invasion and occupation of Kuwait".

3. This decision does not attempt to describe all of the conceivable factual and legal situations resulting from Iraq's invasion and occupation of Kuwait. Bearing in mind Security Council resolution 687 (1991), other types of losses may have been suffered, and they are eligible for compensation if they result from Iraq's invasion and occupation of Kuwait. Ultimately, it will be up to the Commissioners to identify the applicable principles and apply them to the circumstances of particular cases.

4. The propositions and conclusions contained in this decision are not intended to be a comprehensive statement of relevant principles. The Governing Council will review the matter and will provide further guidance concerning business losses as required in the future. In particular, the Governing Council will request the secretariat to consider the question of steps which might be taken to protect against multiple recovery of compensation by claimants, or to confirm that claimants have attempted to avail themselves of particular possible sources of recovery, as a prerequisite to relief from the Commission.

5. When reference is made herein to corporations and other legal entities, it is understood that such corporations or other legal entities may be either publicly or privately owned enterprises.

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* Previously issued under the symbol S/AC.26/1992/9.

6. The trade embargo and related measures,* and the economic situation caused thereby, will not be accepted as the basis for compensation. Compensation will be provided to the extent that Iraq's unlawful invasion and occupation of Kuwait constituted a cause of direct loss, damage or injury which is separate and distinct from the trade embargo and related measures. (Where, for example, the full extent of the loss, damage or injury arose as a direct result of Iraq's unlawful invasion and occupation of Kuwait, it should be compensated notwithstanding the fact that it may also be attributable to the trade embargo and related measures.) The total amount of compensable losses will be reduced to the extent that those losses could reasonably have been avoided. Further guidance on the matters dealt with in this paragraph will be provided by the Governing Council for the use of the Commissioners when assessing claims.

## I. LOSSES IN CONNECTION WITH CONTRACTS OR PAST BUSINESS PRACTICE

### A. Contracts

7. The following general conclusions apply with regard to Iraq's liability for contract losses.

Contracts with Iraq

8. Where Iraq itself was a contracting party and breached its contractual obligations, Iraq is liable under general contract law to compensate for all actual losses suffered by the other contracting party, including, inter alia, losses relating to specially manufactured goods. Future lost profits may be compensable in such a case if they can be calculated under the contract with reasonable certainty. An alternative measure of damages may apply where a governing contract specifically provides for a particular measure, except that the amount of compensation provided should not exceed the loss actually suffered. Breaches of contract not resulting from the invasion and occupation of Kuwait are not within the jurisdiction of the Commission.

9. Where Iraq did not breach a contract to which it was a party, but continuation of the contract became impossible for the other party as a result of Iraq's invasion and occupation of Kuwait, Iraq is liable for any direct loss the other party suffered as a result, including lost profits. In such a situation, Iraq should not be allowed to invoke force majeure or similar contract provisions, or general principles of contract excuse, to avoid its liability.

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* The trade embargo and related measures refers to the prohibitions in United Nations Security Council resolution 661 (1990) and relevant subsequent resolutions and the measures taken by States pursuant thereto.

Contracts where Iraq is not a party

10. Where losses have been suffered in connection with contracts to which Iraq was not a party, the following conclusions apply. Iraq is responsible for the losses that have resulted from the invasion and occupation of Kuwait. A relevant consideration may be whether the contracting parties could resume the contract after the lifting of the embargo against Kuwait and whether they have in fact resumed the contract. Iraq principally cannot be relieved from its responsibility by force majeure provisions of contracts to which it is not a party or contract excuse rules of other applicable laws.

### B. Past business practice

11. Where a loss has been suffered relating to a transaction that has been part of a business practice or course of dealing, Iraq is liable according to the principles that apply to contract losses. No liability exists for losses related to transactions that were only expected to take place based on a previous course of dealing.

## II. LOSSES RELATING TO TANGIBLE ASSETS

12. Where direct losses were suffered as a result of Iraq's invasion and occupation of Kuwait with respect to tangible assets, Iraq is liable for compensation. Typical actions of this kind would have been expropriation, removal, theft or destruction of particular items of property by Iraqi authorities. Whether the taking of property was lawful or not is not relevant for Iraq's liability if it did not provide for compensation.

13. In a case where business property had been lost because it had been left unguarded by company personnel departing due to the situation in Iraq and Kuwait, such loss may be considered as resulting directly from the invasion and occupation.

14. On the other hand, losses that occurred because company personnel was detained by Iraqi authorities, must clearly be considered a direct result. In this context, it is relevant to note the Hague Regulations on Land Warfare annexed to Conventions II of 1899 and IV of 1907 respecting the Laws and Customs of War on Land, which require that an occupying Power has to restore and to ensure public order and safety as far as possible (Hague Regulations, art. 43).

15. Depending on the type of asset and the circumstances of the case, one of several valuation methods may be used. Methods typically used to value tangible assets are book value and replacement value. "Book value" is considered to mean value at which an asset is carried on a balance sheet. Book value at any time is cost of an item minus accumulated depreciation. "Replacement value" is considered to mean the amount required to obtain an asset of the same kind and status as the asset damaged or lost. Replacement value would not normally allow for replacement of an old item with a new one.

## III. LOSSES RELATING TO INCOME-PRODUCING PROPERTIES

16. The following general conclusions apply with regard to losses suffered as a result of Iraq's invasion and occupation of Kuwait in connection with income-producing properties. These include various kinds of businesses whose value is determined not only by the value of their individual assets but also by the greater value they possess due to their capacity to generate income. The conclusions are based on the premise that the business affected was a going concern, i.e., it had the capacity to continue to operate and generate income in the future.

17. In principle, Iraq is liable to compensate for the loss of a business or commercial entity as a whole resulting from Iraq's invasion and occupation of Kuwait. In the event that the business has been rebuilt and resumed, or that it could reasonably have been expected that the business could have been rebuilt and resumed, compensation may only be claimed for the loss suffered during the relevant period.

18. For the valuation of income-producing properties there are several alternative concepts. One is to measure by reference to costs, which leads to the determination of book value. Another is to determine the value of the property as a going concern. This is often done by reference to the market value of similar properties. Where such market value cannot be ascertained, the economic or current value of that asset can be ascertained by the discounted cash flow (DCF) method or by the price/earnings (P/E) method. The DCF method calculates the value at one specified time of cash flows that are to be received at a different time by discounting the yearly net cash flows to present value, with the discount rate including cost of capital and risk components. The price/earnings method takes as a basis past periods' business results and then capitalizes them by the application of a multiple (P/E ratio) which reflects expectations about future performance and growth, or lack of it.

19. In principle, the economic value of a business may include loss of future earnings and profits where they can be ascertained with reasonable certainty. In the case of the loss of businesses and their earning capacity resulting from the invasion and occupation of Kuwait, it can be expected that a number of such businesses can be or could have been rebuilt and resumed. The method of a valuation should therefore be one that focuses on past performance rather than on forecasts and projections into the future. Compensation should be provided if the loss can be ascertained with reasonable certainty based on prior earnings or profits. For example, the loss of any earnings or profits during the relevant time period could be calculated by a multiple of past earnings and profits corresponding to that time period.

## DECISION 10

Adopted by the Governing Council of the United Nations Compensation Commission during its sixth session, at its 27th meeting, held on 26 June 1992

Provisional Rules for Claims Procedure

[See S/24363, annex I, enclosure]

## DECISION 11

Adopted by the Governing Council of the United Nations Compensation Commission during its sixth session, at its 27th meeting, held on 26 June 1992

Eligibility for compensation of members of the Allied Coalition Armed Forces

[See S/24363, annex II]

## Annex II

## Working papers and reports prepared by the secretariat of the United Nations Compensation Commission

| | Symbol | Title |
|---|---|---|
| 1. | S/AC.26/1991/WP.1/Rev.1 | Draft guidelines for conduct of work |
| 2. | S/AC.26/1991/WP.6 | Iraqi oil trade perspectives - report by the Executive Secretary |
| 3. | S/AC.26/1991/WP.7 | Holding and managing oil revenues - report by the Executive Secretary |
| 4. | S/AC.26/1991/WP.10/Rev.1 | What constitutes serious personal injury |
| 5. | S/AC.26/1991/WP.11 | Business losses of individuals eligible for consideration under the expedited procedures |
| 6. | S/AC.26/1991/WP.12 | Recovery from mental pain and anguish |
| 7. | S/AC.26/1991/WP.14 | Small claims forms |
| 8. | S/AC.26/1991/WP.16 | Iraq's oil trade problems and perspectives - report by the Executive Secretary |
| 9. | S/AC.26/1991/WP.17/Rev.1 | Business losses of individuals (the issue of embargo losses) |
| 10. | S/AC.26/1991/WP.18 | Possible ceilings or fixed amounts for compensation for mental pain and anguish |
| 11. | S/AC.26/1991/WP.19 | Information on Iraqi petroleum and petroleum products exported before 3 April 1991 but not delivered or not paid - report by the Executive Secretary |
| 12. | S/AC.26/1992/WP.21 | Compensation for business losses: types of damages and their valuation |
| 13. | S/AC.26/1992/WP.23 | Claim form "D" (individual claim forms for damages above US$ 100,000) |

| | Symbol | Title |
|---|---|---|
| 14. | S/AC.26/1992/WP.24/Rev.1 and Rev.2 | Provisional draft rules for claims procedure |
| 15. | S/AC.26/1992/WP.25 | Suggested definitions for terms used in the draft provisional rules for claims procedure |
| 16. | S/AC.26/1992/WP.29 | Claim form "E" (claims of corporations and other entities) |
| 17. | S/AC.26/1992/WP.31 and Rev.1 | Claim form "F" (claims of Governments and international organizations) |
| 18. | S/AC.26/1991/CRP.1 | Iraq's oil trade perspectives - report by the Executive Secretary |
| 19. | S/AC.26/1991/CRP.2 and Rev.1 | Holding and managing Iraq's oil revenues - report by the Executive Secretary |
| 20. | S/AC.26/1991/CRP.4/Rev.1 | Small claims forms (project by the secretariat) |
| 21. | S/AC.26/1992/CRP.5 | Number of potential claimants |
| 22. | S/AC.26/1992/CRP.6/Rev.1 and Rev.2 | Compensation for business losses, types of damages and their valuation |
| 23. | S/AC.26/1992/CRP.7/Rev.1 and Rev.2 | Chapter IV of draft provisional rules for claims procedure |
| 24. | S/AC.26/1991/R.15 | Implementation of Security Council resolutions 706 (1991) and 712 (1991) |
| 25. | S/AC.26/1991/R.19 | Individuals not in a position to have their claims submitted by a Government |
| 26. | S/AC.26/1992/R.26/Add.1, Add.2 and Add.3 and Add.3/Corr.1 | Funds for the payment of Iraqi petroleum and petroleum products exported before 3 April 1991 |
| 27. | S/AC.26/1992/R.34/Add.1, Add.2 and Add.3 | Replies from Governments to the request for information on the Iraqi exports referred to in Security Council resolution 692 (1991), paragraph 6 |

## Annex III

## Working papers submitted by the members of the Governing Council

| | Symbol | Title |
|---|---|---|
| 1. | S/AC.26/1991/WP.2/Rev.1 | Criteria for submission of claims (United States) |
| 2. | S/AC.26/1991/WP.3 | Monitoring and payment mechanism (United Kingdom) |
| 3. | S/AC.26/1991/WP.4/Rev.1 | Arrangements for ensuring payment to the Fund (United States) |
| 4. | S/AC.26/1991/WP.5/Rev.2 | Arrangements for ensuring payments to the Compensation Fund (United States) |
| 5. | S/AC.26/1991/WP.8/Rev.1 | Criteria for claims up to US$ 100,000 (United Kingdom) |
| 6. | S/AC.26/1991/WP.9/Rev.1 and Rev.2 | Criteria for additional categories of claims (United States) |
| 7. | S/AC.26/1991/WP.13/Rev.1 | Recommendation pursuant to paragraph 19 of the criteria for expedited processing of urgent claims (Austria) |
| 8. | S/AC.26/1991/WP.15 | Corporate losses (France) |
| 9. | S/AC.26/1991/WP.20 | Criteria for environmental damage (United States) |
| 10. | S/AC.26/1992/WP.22 | Embargo losses (United States) |
| 11. | S/AC.26/1992/WP.27/Add.1 | Criteria for compensation for members of the Allied Coalition Forces (United Kingdom) |
| 12. | S/AC.26/1992/WP.28/Rev.1 | Criteria for the definition of direct loss, damage, or injury as a result of Iraq's unlawful invasion and occupation of Kuwait, when applied to business losses (United Kingdom) |
| 13. | S/AC.26/1992/WP.30 | Problem of claims arising during or after the filing period (United States) |

| | Symbol | Title |
|---|---|---|
| 14. | S/AC.26/1992/WP.32 | Examples of compensable commercial losses suffered in Iraq by Russian foreign trading associations (Russian Federation) |
| 15. | S/AC.26/1992/WP.33 | Amendments to working paper S/AC.26/1992/WP.28 (France) |
| 16. | S/AC.26/1992/WP.34 | Amendment to the draft provisional rules for claims procedure proposed by Austria (art. 16) |
| 17. | S/AC.26/1992/WP.35 | Examples of business losses resulting directly from Iraq's invasion and occupation of Kuwait (India) |
| 18. | S/AC.26/1992/WP.36 | Examples of compensable business losses suffered by Chinese companies (China) |
| 19. | S/AC.26/1992/WP.37 | Modalities for granting priority of payment to A, B and C claims (India) |
| 20. | S/AC.26/1991/CRP.3/Rev.1 | Arrangements for ensuring payments to the Compensation Fund (United States) |
| 21. | S/AC.26/1992/CRP.9 | Draft decision in respect of compensation for members of the Allied Coalition Armed Forces (United Kingdom) |

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